

July 12, 2016

The Honorable Shaun Donovan
Director
Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

The Honorable Tom Wheeler
Chairman
Federal Communications Commission
445 12th St. SW
Washington, DC 20554

Dear Director Donovan and Chairman Wheeler:

We write to inquire about how your agencies intend to help protect consumers from receiving intrusive robocalls and robotexts from the federal government and its contractors. In light of the Supreme Court's decision in *Campbell-Ewald Co. v. Gomez* exempting the federal government from the Telephone Consumer Protection Act (TCPA), and the recently released Declaratory Ruling by the Federal Communications Commission (FCC) that formally exempts government contractors from the TCPA, we are concerned that consumers may now be bombarded by unwanted robocalls and robotexts, with no effective means to stop these harassing communications.

The Supreme Court ruled in *Campbell-Ewald Co. v. Gomez* that Congress did not intend for the TCPA to apply to federal agencies, but made no determination with respect to federal contractors. Congress demonstrated that it intended that the TCPA applies to government agents and contractors by passing Section 301 of the 2015 Budget Act, which exempted debt collection efforts made on behalf of the United States. We strongly opposed this provision. Nonetheless, its adoption is clear evidence that Congress believed that the TCPA already applied to government contractors.

The FCC's Declaratory Ruling goes much further than Section 301 in opening the door to unwanted calls and texts. We must ensure that government contractors are subject to meaningful rules that prohibit them from violating the consumer protections established by the TCPA, and that whatever rules are established can be enforced by consumers. We respectfully request that you answer the following: How do the FCC and the OMB intend to help protect consumers from unwanted and intrusive robocalls and robotexts?

1. For the FCC: Why did the Commission issue this Declaratory Ruling prior to concluding its rulemaking under Section 301? Will the Commission reconsider its determination that federal contractors are not covered by the TCPA in the Declaratory Ruling? If yes, when? If no, will the Commission use the Section 301 rulemaking to ensure all

consumers enjoy some protections against unwanted robocalls and robotexts from all federal contractors?


2. For OMB: will OMB require that all federal agencies adhere to a set of enforceable standards to protect consumers from unwanted calls? If no, why not?
 - a. If yes, how will those standards be established and what role will the FCC play?
 - b. What steps will OMB and the FCC take to ensure that agencies establish these standards and what is the timeline for completing each step?
 - c. What will be the legal mechanism by which consumers can stop robocalls from government contractors and agents? How will consumers enforce their requests to stop the calls?


Thank you for your attention to this important matter. We ask that you provide a written response to our inquiry by August 2, 2016.

Sincerely,



Edward J. Markey
United States Senator



Richard Blumenthal
United States Senator


Patrick Leahy
United States Senator


Robert Menendez
United States Senator


Al Franken
United States Senator


Elizabeth Warren
United States Senator


Cory A. Booker
United States Senator


Amy Klobuchar
United States Senator



Sherrod Brown
United States Senator



Jeffrey A. Merkley
United States Senator



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

August 5, 2016

The Honorable Edward J. Markey
United States Senate
255 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Markey:

Thank you for your inquiry about how the Commission, along with the Office of Management and Budget, intends to help protect consumers from receiving intrusive robocalls and robotexts from the federal government and its contractors. You express concern about the effects of the Supreme Court's decision in *Campbell-Ewald Co. v. Gomez* and the FCC's recent *Broadnet* Declaratory Ruling, both of which addressed the application of the Telephone Consumer Protection Act (TCPA) to the federal government and its contractors.

I share your concern about the impact that unwanted calls have on consumers. Robocalls and telemarketing calls are currently the largest source of consumer complaints at the FCC. The Commission should and will use the powers granted it by Congress to continue to pursue pro-consumer limits to unwanted calls.

The Commission has taken a number of recent actions to protect consumers from such unwanted calls and to give them more control over the calls and texts they receive. Last year, for example, the Commission closed a number of loopholes in our robocall restrictions. This includes limits on robocalls placed to reassigned numbers to ensure that consumers who inherit another consumer's phone number are protected from robocalls intended for the original consumer.

As you reference, in Section 301 of the 2015 Budget Act, the Congress specifically allows robocalls without consumer consent if placed for the purpose of collecting federal debt. In the new law, Congress gave the FCC specific jurisdiction to limit such calls. Earlier this week, the Commission adopted an Order that will establish rules for federal debt collection that limit the number of calls per month, ensure the correct person is called, and allow consumers to stop such calls. These rules, which were adopted on August 2, 2016 in accordance with Section 301's statutory deadline for action, are pending release.

I also recently wrote to the largest wireline and wireless telephone companies urging them to speed the availability of robocall blocking services that will allow consumers to stop unwanted calls from ever reaching them. I am pleased to report that in response to these letters, AT&T has committed to leading an industry strike force to develop an action plan for providing

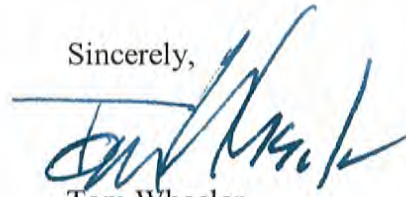
Page 2—The Honorable Edward J. Markey

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I appreciate your interest in this important consumer matter as well as your steadfast leadership on TCPA issues and commitment to protecting consumers. Please let me know if I can be of any further assistance.

Sincerely,



Tom Wheeler



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

August 5, 2016

The Honorable Richard Blumenthal
United States Senate
706 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Blumenthal:

Thank you for your inquiry about how the Commission, along with the Office of Management and Budget, intends to help protect consumers from receiving intrusive robocalls and robotexts from the federal government and its contractors. You express concern about the effects of the Supreme Court's decision in *Campbell-Ewald Co. v. Gomez* and the FCC's recent *Broadnet* Declaratory Ruling, both of which addressed the application of the Telephone Consumer Protection Act (TCPA) to the federal government and its contractors.

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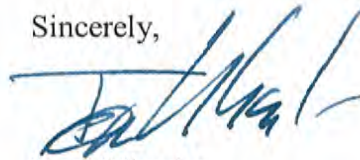
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Tom Wheeler



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

August 5, 2016

The Honorable Patrick Leahy
United States Senate
437 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Leahy:

Thank you for your inquiry about how the Commission, along with the Office of Management and Budget, intends to help protect consumers from receiving intrusive robocalls and robotexts from the federal government and its contractors. You express concern about the effects of the Supreme Court's decision in *Campbell-Ewald Co. v. Gomez* and the FCC's recent *Broadnet* Declaratory Ruling, both of which addressed the application of the Telephone Consumer Protection Act (TCPA) to the federal government and its contractors.

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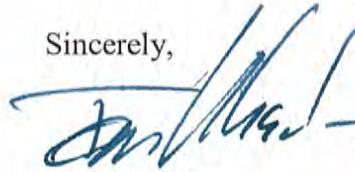
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Tom Wheeler



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

August 5, 2016

The Honorable Robert Menendez
United States Senate
528 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Menendez:

Thank you for your inquiry about how the Commission, along with the Office of Management and Budget, intends to help protect consumers from receiving intrusive robocalls and robotexts from the federal government and its contractors. You express concern about the effects of the Supreme Court's decision in *Campbell-Ewald Co. v. Gomez* and the FCC's recent *Broadnet* Declaratory Ruling, both of which addressed the application of the Telephone Consumer Protection Act (TCPA) to the federal government and its contractors.

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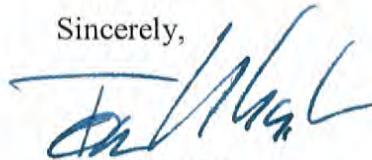
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Sincerely,



Tom Wheeler



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

August 5, 2016

The Honorable Al Franken
United States Senate
309 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Franken:

Thank you for your inquiry about how the Commission, along with the Office of Management and Budget, intends to help protect consumers from receiving intrusive robocalls and robotexts from the federal government and its contractors. You express concern about the effects of the Supreme Court's decision in *Campbell-Ewald Co. v. Gomez* and the FCC's recent *Broadnet* Declaratory Ruling, both of which addressed the application of the Telephone Consumer Protection Act (TCPA) to the federal government and its contractors.

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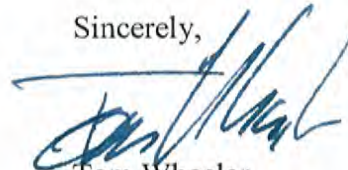
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Sincerely,



Tom Wheeler



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

August 5, 2016

The Honorable Amy Klobuchar
United States Senate
302 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Klobuchar:

Thank you for your inquiry about how the Commission, along with the Office of Management and Budget, intends to help protect consumers from receiving intrusive robocalls and robotexts from the federal government and its contractors. You express concern about the effects of the Supreme Court's decision in *Campbell-Ewald Co. v. Gomez* and the FCC's recent *Broadnet* Declaratory Ruling, both of which addressed the application of the Telephone Consumer Protection Act (TCPA) to the federal government and its contractors.

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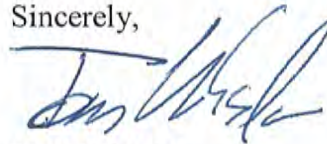
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Tom Wheeler



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

August 5, 2016

The Honorable Elizabeth Warren
United States Senate
317 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Warren:

Thank you for your inquiry about how the Commission, along with the Office of Management and Budget, intends to help protect consumers from receiving intrusive robocalls and robotexts from the federal government and its contractors. You express concern about the effects of the Supreme Court's decision in *Campbell-Ewald Co. v. Gomez* and the FCC's recent *Broadnet* Declaratory Ruling, both of which addressed the application of the Telephone Consumer Protection Act (TCPA) to the federal government and its contractors.

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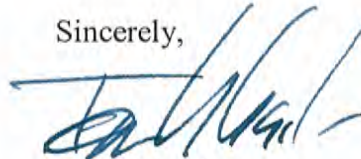
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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

August 5, 2016

The Honorable Cory Booker
United States Senate
359 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Booker:

Thank you for your inquiry about how the Commission, along with the Office of Management and Budget, intends to help protect consumers from receiving intrusive robocalls and robotexts from the federal government and its contractors. You express concern about the effects of the Supreme Court's decision in *Campbell-Ewald Co. v. Gomez* and the FCC's recent *Broadnet* Declaratory Ruling, both of which addressed the application of the Telephone Consumer Protection Act (TCPA) to the federal government and its contractors.

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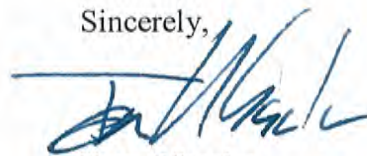
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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
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August 5, 2016

The Honorable Sherrod Brown
United States Senate
713 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Brown:

Thank you for your inquiry about how the Commission, along with the Office of Management and Budget, intends to help protect consumers from receiving intrusive robocalls and robotexts from the federal government and its contractors. You express concern about the effects of the Supreme Court's decision in *Campbell-Ewald Co. v. Gomez* and the FCC's recent *Broadnet* Declaratory Ruling, both of which addressed the application of the Telephone Consumer Protection Act (TCPA) to the federal government and its contractors.

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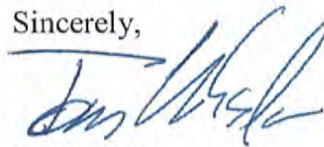
I also recently wrote to the largest wireline and wireless telephone companies urging them to speed the availability of robocall blocking services that will allow consumers to stop unwanted calls from ever reaching them. I am pleased to report that in response to these letters, AT&T has committed to leading an industry strike force to develop an action plan for providing

consumers with robust robocall-blocking solutions. I have given industry 60 days to deliver their plan to help stop unwanted calls.

In its *Broadnet* decision, the Commission found that robocalls to organize congressional town halls are a federal official function and, consistent the Supreme Court's *Campbell-Ewald* decision, are not covered by TCPA. While the *Broadnet* decision permitted contractors to congressional offices to facilitate those calls, the Commission reserves the right to take further regulatory action if warranted. With the recent filing of a petition for reconsideration of the *Broadnet* decision, the Commission is once again seeking public comment on the robocall activities of the federal government and contractors. After the record closes, we will take that input—including your correspondence which has been entered into the record—into account when deciding how to rule on this petition.

I appreciate your interest in this important consumer matter as well as your steadfast leadership on TCPA issues and commitment to protecting consumers. Please let me know if I can be of any further assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tom Wheeler", with a stylized flourish at the end.

Tom Wheeler



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

August 5, 2016

The Honorable Jeffrey A. Merkley
United States Senate
313 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Merkley:

Thank you for your inquiry about how the Commission, along with the Office of Management and Budget, intends to help protect consumers from receiving intrusive robocalls and robotexts from the federal government and its contractors. You express concern about the effects of the Supreme Court's decision in *Campbell-Ewald Co. v. Gomez* and the FCC's recent *Broadnet* Declaratory Ruling, both of which addressed the application of the Telephone Consumer Protection Act (TCPA) to the federal government and its contractors.

I share your concern about the impact that unwanted calls have on consumers. Robocalls and telemarketing calls are currently the largest source of consumer complaints at the FCC. The Commission should and will use the powers granted it by Congress to continue to pursue pro-consumer limits to unwanted calls.

The Commission has taken a number of recent actions to protect consumers from such unwanted calls and to give them more control over the calls and texts they receive. Last year, for example, the Commission closed a number of loopholes in our robocall restrictions. This includes limits on robocalls placed to reassigned numbers to ensure that consumers who inherit another consumer's phone number are protected from robocalls intended for the original consumer.

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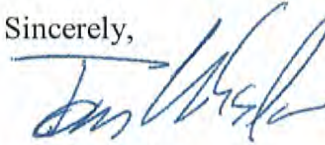
Page 2—The Honorable Jeffrey A. Merkley

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